

APPEAL NO. 041757  
FILED SEPTEMBER 7, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 21, 2004. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the seventh quarter.

The claimant appealed, contending that no doctor has released her to return to work. The file does not contain a response from the respondent (carrier).

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The SIBs criterion in dispute is whether the claimant made a good faith effort to obtain employment commensurate with her ability to work during the qualifying period for the seventh quarter. It is undisputed that the claimant did not work or look for work during the qualifying period and that she did not participate in any vocational rehabilitation program sponsored by the Texas Rehabilitation Commission or provided by a private provider.

Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative report from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work. Rule 130.102(e) provides in part that, except as provided in subsection (d)(1), (2), (3), and (4) of Rule 130.102, an injured employee who has not returned to work and is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts.

In the instant case, the carrier offered a report dated during the qualifying period from the carrier's required medical examination doctor who stated he found "no objective abnormalities on exam" and was of the opinion that the claimant "has the capacity to return to work. . . without limitations." Even the treating doctor, in a report dated after the qualifying period, suggests that the claimant could do some "work that would be totally sedentary and with minimal use of the upper extremity." The hearing officer found that during the seventh quarter qualifying period, the claimant was able to do her preinjury work.

After a review of the record before us, and the complained-of determinations, we have concluded that there is sufficient factual and legal support for the hearing officer's

decision and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CONTINENTAL CASUALTY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Veronica L. Ruberto  
Appeals Judge